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5 UNITED STATES DISTRICT COURT  
6 DISTRICT OF NEVADA

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8 JOE SUSTACHA,

Case No. 3:17-cv-00536-MMD-WGC

9 Petitioner,

ORDER

10 v.

11 STATE OF NEVADA, *et al.*,

12 Respondents.

13 Joe Sustacha has submitted *pro se* what he has styled as a complaint (ECF No.  
14 1-1). Sustacha appears to seek to challenge certain conditions of his confinement at  
15 Lakes Crossing medical facility—which might implicate his civil rights under 42 U.S.C. §  
16 1983—and the fact of his involuntary commitment—which might implicate his federal  
17 habeas corpus rights. 28 U.S.C § 2254(a).

18 Sustacha has not filed an application to proceed *in forma pauperis* or paid any  
19 filing fee, and his complaint or petition is not on any of this Court's forms. Accordingly,  
20 this matter has not been properly commenced. 28 U.S.C. § 1915(a)(2), Local Rules  
21 LSR1-2, 2-1, 3-1.

22 Accordingly, the present action will be dismissed without prejudice to the filing of  
23 a new habeas petition or civil rights complaint in a new action with either the applicable  
24 filing fee or a completed application to proceed *in forma pauperis* on the proper form.

25 It is therefore ordered that the Clerk detach and file the complaint (ECF No. 1-1).

26 It is further ordered that this action is dismissed without prejudice to the filing of a  
27 new petition or new complaint in a new action with a properly completed application form  
28 to proceed *in forma pauperis* or the filing fee.


1 It is further ordered that petitioner's motion for release from facility (ECF No. 4) is  
2 denied as moot.

3 It is further ordered that a certificate of appealability is denied, as jurists of reason  
4 would not find the Court's dismissal of this improperly commenced action without  
5 prejudice to be debatable or incorrect.

6 It is further ordered that the Clerk send petitioner two (2) copies each of an  
7 application form to proceed *in forma pauperis* for incarcerated persons, a noncapital  
8 Section 2254 habeas petition form, a § 1983 civil rights complaint form, one copy of the  
9 instructions for each form, and a copy of the papers that he submitted in this action.

10 It is further ordered that the Clerk enter judgment accordingly and close this case.

11 DATED THIS 8<sup>th</sup> day of November 2017.

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15 MIRANDA M. DU  
16 UNITED STATES DISTRICT JUDGE  
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